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HON'BLE SRI JUSTICE D.S.R. VARMA

AND

HON'BLE SRI JUSTICE V. ESWARAIAH

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W.P.NO. NO.649 OF 2006

ORAL ORDER:

(per the Hon'ble Sri Justice D.S.R. VARMA)

Heard both sides and at their request, this matter is taken up for disposal at the stage of admission.

The petitioner is an entrepreneur, who was undisputedly entitled to certain incentives and accordingly availed incentives for a sum of about Rs. 5 crores subject to certain conditions. On the ground that those conditions have not been complied with, the final eligibility certificate to avail those incentives was cancelled by an order-dated 1.9.2005. Consequently, a distraint order Under Section 8 of the Revenue Recovery Act, had also been passed on 5.1.2006.

In the meanwhile, the petitioner made a representation to the Government on 27.9.2005, seeking a revision of the orders passed by the State Level Committee, as contemplated in the proceedings dated 1.9.2005. Pursuant to the said representation dated 27.9.2005, it appears that the Government by its memo-dated 22.11.2005 directed the competent authority to hear the applicant and then decide in SLC and also intimate the action taken. The disposal of the said application was suggested in the said letter.

Now the grievance of the petitioner is that the said direction of the Government had not been complied with and the steps, which were initiated, as stated above, are being processed. As a result, the petitioner shall have to refund a

sum of Rs. 5 Crores, which was availed of, as incentives. It is stated by the learned counsel appearing for the petitioner that Consequent to the letter dated 22.11.2005, objections also have been filed on 7.1.2006.

It is to be noted in this connection that once the Government had issued certain directions to the Department to consider the case of the petitioner, specially in a particular way, particularly the principles of *audi alteram partem*, it is expedient for the competent authority to consider the case of the applicant, as suggested/directed by the Government.

Therefore, having regard to the facts and circumstances of the case, it would suffice to dispose of the Writ Petition with a direction to the respondents to consider the objections dated 7.1.2006 filed by the petitioner, as expeditiously as possible, within a period of four weeks from the date of receipt of a copy of this order. However, the petitioner shall deposit a sum of Rs. 75,00,000/- in addition to the sum Rs. 25,00,000/- already said to have been deposited, within four weeks from today, without insisting for the payment of remaining amount as demanded.

It is further clarified that the consideration of the representation made by the petitioner would and should be subject to the compliance of the above order and such consideration by the respondent shall be as expeditiously as possible, however, not beyond four weeks after the compliance of the order.

_____ D.S.R.VARMA, J

_____ V. ESWARAIAH, J

Dated: 10.01.2006

Ka/lur

Note: Communicate operative portion of the order by wire at party's costs.

(B/O)ka/lur